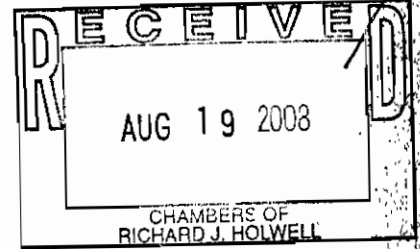




STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL



ANDREW M. CUOMO
ATTORNEY GENERAL

LESLIE LEACH
DEPUTY ATTORNEY GENERAL
STATE COUNSEL DIVISION

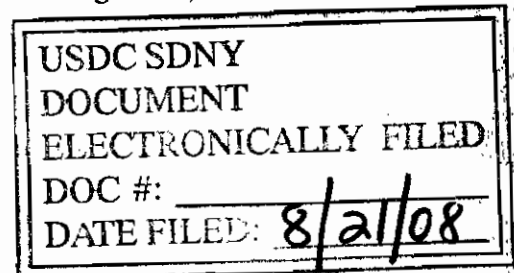
(212) 416-8653

JUNE DUFFY
ASSISTANT ATTORNEY GENERAL IN CH
LITIGATION BUREAU

VIA FACSIMILE

Honorable Richard J. Howell
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007-

August 19, 2008



Re: Al Banche v. Fischer / 08 Civ. 4751 (RJH)

Dear Judge Howell:

I represent the defendants former Commissioner Goord, Commissioner Fischer and Superintendent Marshall of the New York State Department of Correctional Services in the above-referenced action. By letter dated August 19, 2008, I wrote in response to counsel's letter dated July 28, 2008 and requested permission to move to dismiss and set forth a proposed briefing schedule. As I have not yet heard from the Court and I will be on vacation from August 21, 2008 to September 5, 2008, I write to renew my request for permission to move to dismiss the complaint in the above-reference action and propose a modified briefing schedule.

Defendants propose the following briefing schedule:

Defendants' motion to be served and filed by September 12, 2008

Plaintiff's opposition papers to be served and filed by October 17, 2008

Defendants' reply papers to be served and filed by October 31, 2008

Wherefore, it is respectfully requested that the Court adopt the above briefing schedule and that all discovery be stayed pending a decision on the motion.

SO ORDERED

[Handwritten signature] USJD

Respectfully submitted,

[Handwritten signature]
REBECCA ANN DURDEN
Assistant Attorney General

cc: Cynthia Conti-Cook, Via facsimile

8/21/08